

Chapter 3 – Lead Based Paint Requirements

Background

The primary cause of childhood lead poisoning is deteriorating lead-based paint and lead-contaminated dust and soil in older housing units. Although lead was banned from residential house paint in 1978 by the Consumer Product Safety Commission (CPSC), an estimated 57 million older homes still contain some lead-based paint. Of these, some 3.8 million dwellings are thought to have both lead-based paint hazards and young children as residents.

The amount of lead-based paint in housing is significant. Tens of millions of housing units contain at least some lead-based paint. Children living in homes with lead-based paint become exposed to lead by directly eating chips of lead-based paint or chewing on protruding surfaces painted with lead-based paint. The more common route of exposure, however, is the ingestion of lead-bearing dust that is generated by the paint when it deteriorates, chalks, or is disturbed through renovation or even abrasion from the opening and closing of windows. Even in this less direct way, lead-based paint can be a source lead poisoning.

The most common route of exposure for children is through ingestion of lead-contaminated dust. This dust sticks to moist hands as a child plays or crawls across the floor, and is then ingested via finger sucking or other normal hand-to-mouth activity. A child can also be poisoned by eating lead-based paint chips and lead-contaminated soil, and by being exposed to other environmental sources of lead from inside and outside the home. Additionally, repair and renovation activities, such as repainting, that disturb lead-based paint can generate significant levels of leaded dust to which children can be easily exposed.

General Education Requirements

IHFA requires all recipients to participate in educating the public on the hazards of lead poisoning. The following material must be posted or distributed to the parties indicated regardless of project activity:

1. “Lead Paint Safety: A Field Guide for Painting” - This brochure must be distributed to every contractor and sub-contractor participating in a HOME or CDBG assisted housing rehabilitation program. Documentation of the distribution of this brochure to the contractors and sub-contractors must be maintained in the project file. The recipient must create a receipt form for the contractor to sign to document receipt of the brochure. This brochure can be ordered from the National Lead Information Center at (800) 424-5323.
2. “Protect Your Family From Lead in Your Home” - This EPA brochure must be distributed to every family participating in any your housing activity. This includes occupants of homeless shelters and transitional housing units. Documentation of the distribution of this brochure to beneficiaries must be maintained in each project file.
3. “Protect Your Children From Lead Poisoning” - This poster must be displayed at the offices of the local unit of government, subrecipient, award administrator, and any administrative organization involved in a federally assisted project. IHFA encourages local officials to post these posters at any public facility located in the jurisdiction. Additionally, all tenants during the affordability period must also receive this brochure: i.g. rental, transitional housing, emergency shelter, youth shelter and migrant seasonal farmworker housing.

Exemptions to the Lead Based Paint Requirements

- Residential structures built after January 1, 1978
- Rehabilitation that does not disturb paint
- Emergency action activities
- Areas where state and local governments banned lead-based paint prior to January 1, 1978
- Properties found not to have lead-based paint during earlier testing that meets the requirements of prior evaluations
- Properties where all lead-based paint has been identified and removed using approved methods
- Unoccupied units that will be demolished
- Property not suitable for human residential habitation
- Zero-room dwelling units where child occupancy is unlikely
- Elderly and disabled housing

General Lead Based Paint Guidelines

Notification Requirements

- Property owners must provide purchasers and lessees with available information or knowledge regarding the presence of lead-based paint and lead-based paint hazards prior to selling or leasing a residence.
- **Notice of Evaluation.** The administering agency must notify occupants about the results of the lead hazard evaluation within 15 days after the results have been determined. The notification must provide the following information:
 - (a) The presence and location of lead-based paint or the presumption of lead based paint.
 - (b) A description of how occupants can get further information including the full report of the testing methods and results.
 - (c) An explanation of the decision to forego evaluation and presume that lead-based paint and/or hazards exist. You must notify occupants of the reasons for making this presumption.
- In single-family buildings, recipients can provide this information to the homeowner directly.
- In multi-family buildings, recipients can either distribute this information to each household or post it in a central location where all residents can access it.
- The results and methods of all evaluations must be summarized in a report that is made available to residents if they request. Program staff can prepare the report; however, in some cases the paint inspector or risk assessor may be the most qualified person to write the report.
- Occupants must receive the results of the hazard reduction and clearance test within 15 days of completion.
- **Notification of hazard reduction and clearance** must be within 15 days of completion and includes:
 - (a) A summary of the hazard reduction activities and clearance results.
 - (b) A contact name, address, and telephone number for further information.
 - (c) The locations of remaining lead-based paint surfaces and lead hazards.

Evaluation and Technical Certifications

- Evaluation must be conducted by a licensed professional:
 - (a) **Paint testing** must be conducted by a licensed lead-based paint inspector or risk assessor.
 - (b) **Risk assessments** must be conducted by a licensed risk assessor.
 - (c) All paint testing samples and risk assessment samples must be analyzed by an approved laboratory.
 - (d) **Clearance Test** must be conducted by a licensed lead-based paint inspector, risk assessor or clearance technician.
 - (e) **Safe Work Practices** must be completed by contractors that are supervised by a licensed abatement supervisor or contractors trained in a HUD approved lead based paint worker course.
 - (f) **Visual Assessments** must be conducted by person that have completed HUDs online visual assessment training located at:
www.hud.gov:80/lea/training/visualassessment/h00100.htm

Lead Hazard Reduction

- (a) **Paint Stabilization:** Includes repairing disturbed paint and applying a new coat of paint. Paint stabilization must be done by a certified abatement worker or by a contractor who is supervised by a certified abatement supervisor.
- (b) **Interim Controls and Standard Treatments:** Includes addressing friction and impact surfaces, creating smooth and cleanable surfaces, encapsulation, removing or covering lead-based paint components, and paint stabilization. Interim controls and standard treatments must be completed by a certified abatement worker, by a contractor who is supervised by a certified abatement supervisor or by workers trained in a HUD approved lead based paint worker course.
- (c) **Abatement:** Abatement involves permanently removing lead-based paint hazards, often through paint and component removal, and enclosure. Abatement work must be done by a licensed abatement supervisor along with certified abatement workers.
- (d) **Safe Work Practices.** Safe work practices must be used for all work on all lead-based paint surfaces. Safe work practices are required on deteriorated interior surfaces (i) larger than 2 square feet, (ii) over 10% of any building component (eg, window or door trim) and (iii) on deteriorated exterior surfaces larger than 20 square feet.
- (e) **Pre-Construction Conference:** For activities where a licensed Lead-Based Paint Abatement Supervisor is utilized, a pre-construction conference for all contractors and workers that will be involved in disturbing lead-based paint is required. The supervisor will be required to explain safe work practices and review the work specification for each particular job site. The supervisor must explain the entire process to contractors, including possible increase in job cost, use of HEPA vacuums, clearance test, relocation, and retainage. Additionally the supervisor must be located within a 2 hour radius of the job site. Award recipients are required to keep documentation of minutes and attendees of the pre-construction conference. IHFA staff will document this requirement at monitoring.

Clearance

- **Performance of Clearance.** The purpose of clearance is to make sure that the unit is safe for occupants to return. Occupants are not permitted in the work area until it has passed clearance. Clearance must be performed at least one hour after work has been completed. During clearance, a certified professional will take dust samples and have them tested for lead. ***Clearance tests are not required when work areas is smaller that a total of 2 square feet per room, 10 percent of the total surface area of interior components, such as window sills or smaller than 20 square feet on the exterior (DeMinimus).***
- **Clearance Examiner.** Clearance inspections must be conducted by a licensed professional. The clearance examiner must be independent from the individual or entity that conducted the paint stabilization or other lead hazard reduction, unless they are employees of the administering agency. Note: If agency employees are used, the same individual who conducted paint stabilization is not permitted to conduct clearance.
- **Before Clearance.** Prior to the clearance inspection, the contractor and program staff should ensure that the worksite is ready for inspection.
 - (a) Be sure that all required work has been complete.
 - (b) Be sure that all the lead hazard reduction measures have been completed.
 - (c) Remove debris, paint chips, and dust from all surfaces, especially horizontal surfaces.
 - (d) Remove debris and chips for the ground surrounding the building.
 - (e) No less than one hour after work has been completed; perform a final check of all surfaces for dust and chips. Check where dust tends to settle such as window troughs and sills, the tops of doorframes, and baseboards.
- **Clearance Tasks.** During clearance, the clearance professional will complete the following tasks.
 - (a) Conduct a visual assessment of the unit and worksite to identify dust, debris, and deteriorated paint.
 - (b) Take dust samples from floors, interior windowsills, and window troughs.
 - (c) If work was done to the exterior, visually assess the soil near the worksite.
 - (d) Submit the samples to an NLLAP-recognized laboratory for analysis.
 - (e) Write a report presenting the results of the clearance examination.

	Floors ($\mu\text{g}/\text{ft}^2$)	Interior Window Sills ($\mu\text{g}/\text{ft}^2$)	Window Troughs ($\mu\text{g}/\text{ft}^2$)
Lead in Dust (as measured by a dust wipe sample)	40	250	400

- **Final Payment to Contractor.** A minimum of 10% of the total contract must be held from the contractor until you receive a clearance report detailing that the levels of lead are within the acceptable range.

Relocation

Occupants shall be temporarily relocated before and during hazard reduction activities to a suitable, decent, safe, and similarly accessible dwelling unit that does not have lead-based paint hazards, except if:

- (i) Treatment will not disturb lead-based paint hazards or soil-lead hazards;
- (ii) Only the exterior of the dwelling unit is treated, and windows, doors, ventilation intakes and other opening in or near the worksite are sealed during hazard control work and cleaned afterward, and entry free of dust-lead hazards, soil-lead hazards, and debris is provided;
- (iii) Treatment of the interior will be completed within one period of 8-daytime hours, the worksite is contained so as to prevent the release of leaded dust and debris into other areas, and treatment does not create other safety, health or environmental hazards (e.g. exposed live electrical wiring, release of toxic fumes, or site-disposal of hazardous waste); or
- (iv) Treatment of the interior will be completed within 5 calendar days, the worksite is contained so as to prevent the release of leaded dust and debris into other areas, treatment does not create other safety, health, or environmental hazards and, at the end of work on each day, the worksite and the area within at least 10 feet (3 meters) of the containment area is cleaned to remove any visible dust or debris, and occupants have safe access to sleeping areas, and bathroom and kitchen facilities.

If it is determined that occupants must be relocated from the lead premises then the occupants must remain from the units until the unit passes clearance.

On-Going Lead Based Paint Requirements

- ◆ On-Going Requirements for HOME and CDBG rental properties
 - The following are specific maintenance activities required:
 - (a) Regular maintenance and evaluation of the lead hazard reduction work must be performed. The owner is responsible for:
 - A visual inspection of lead-based paint at unit turnover or at least annually;
 - Repair of all unstable paint; and
 - Repair encapsulated or enclosed area that are damaged; and
 - Performing a clearance examination. Repairs are considered complete after the work site passes clearance.
 - (b) Owners should request, in writing, that the occupants of rental units monitor lead-based paint surfaces and inform the owner of potential hazards.
 - Owners must inform current and new occupants of the lead hazard reduction methods that took place and where lead-based paint exists in their units. Both the “Lead Based Paint: A Threat to Your Children” and “Protect Your Family From Lead in Your Home” must be provided to new occupants.
 - Owners must continue to comply with the notification requirements when additional lead hazard evaluation and hazard reduction activities are performed.
- ◆ On-Going Requirements for CDBG Public Facilities Receiving On-Going Federal Assistance (emergency shelters and youth shelters)

- The housing provider must incorporate ongoing maintenance of painted surfaces into regular building operations. Ongoing maintenance includes:
 - (a) Conducting a visual assessment to identify deteriorated paint at unit turnover or at least annually;
 - (b) Stabilizing any deteriorated paint identified during ongoing monitoring. Paint stabilization must be completed within 30 days of notification of inspection results; and
 - (c) Performing a clearance examination. Repairs are considered complete after the work site passes clearance.
- Occupants must be informed of lead-based paint hazards identified during ongoing monitoring and treated during ongoing maintenance.
 - (a) The housing provider must notify the occupant within 15 days of lead hazard evaluation or presumption of a lead-based paint hazard.
 - (b) When paint stabilization occurs, the housing provider must notify the occupant within 15 days of stabilization completion. This notice must include:
 - Summary of the nature, scope, and results of paint stabilization;
 - Contact name, address, and telephone number for more information; and
 - Available information on the location of any remaining lead-based paint.
- The notice must be provided to occupants at their apartments or in a centrally located common area.

The housing provider must respond to resident notification of deteriorated paint and perform paint stabilization within 30 days of receiving notification.

Rehabilitation Programs

STEP 1 Calculating the Level of Rehabilitation Assistance

- Determine the approach to Lead Hazard Evaluation and Reduction by calculating the level of assistance.
- The level of assistance is determined by taking the lower of the per unit rehabilitation hard costs, or per unit federal assistance.
- The following costs are not counted when calculating the level of assistance for a project.
 - (a) Soft Costs
 - (b) Administrative Costs
 - (c) Relocation Costs
 - (d) Program Delivery Costs
 - (e) Environmental Reviews
 - (f) Acquisition of the Property
 - (g) Lead Hazard Evaluation and Reduction Costs*

*Lead hazard evaluation and reduction costs associated with site preparation, occupant protection, relocation, interim controls, abatement, clearance, and waste handling attributed to lead-based paint reduction.

- In multi-family projects that include both federally-assisted and non-assisted units, use the following formula:

[(Rehabilitation hard costs for all assisted dwelling units (not including common exterior areas/number of federally-assisted units in the project) + (rehabilitation hard costs for common areas and exterior surfaces/total number of units in the project)]

STEP 2 Lead Hazard Evaluations for Rehabilitation Activities

- Each unit must be evaluated to identify lead hazards. The required method of evaluation depends on the level of rehabilitation assistance that was calculated in Step 1. The chart below outlines the various requirements according to the level of assistance identified.
- Rehabilitation program managers have the option to forego paint testing and presume the presence of lead-based paint.
- Rehabilitation costs up to and including \$5,000 requires paint testing of surfaces that will be disturbed during the rehabilitation process.
- Work over \$5,000 requires paint testing and a risk assessment of the entire unit and of surfaces to be disturbed during rehabilitation.

	< \$5,000	\$5,000 - \$25,000	> \$25,000
Approach to Lead Hazard Evaluation and Reduction	1. Do no harm	3. Identify and control lead hazards	4. Identify and abate lead hazards
Notification	Yes	Yes	Yes
Lead Hazard Evaluation	<ul style="list-style-type: none"> • Paint testing of surfaces disturbed by rehabilitation 	<ul style="list-style-type: none"> • Paint testing of surfaces to be disturbed by rehabilitation • Risk assessment 	<ul style="list-style-type: none"> • Paint testing of surfaces to be disturbed by rehabilitation • Risk assessment
Lead Hazard Reduction	<ul style="list-style-type: none"> • Repair surfaces disturbed during rehabilitation • Safe work practices • Clearance of work site 	<ul style="list-style-type: none"> • Interim controls • Safe work practices • Clearance of unit 	<ul style="list-style-type: none"> • Abatement • Safe work practices • Clearance of unit
Ongoing Maintenance	For HOME rental properties	For HOME rental properties	For HOME rental properties
EIBLL	No	No	No
Options	<ul style="list-style-type: none"> • Presume lead-based paint • Use safe work practices on all surfaces 	<ul style="list-style-type: none"> • Presume lead-based paint • Use standard treatments 	<ul style="list-style-type: none"> • Presume lead-based paint • Abate all applicable surfaces

STEP 3 Notification of Evaluation

STEP 4 Project Set-up using Exhibit J, refer to Set-up Chapter

STEP 5 Lead Hazard Reduction

- The level of hazard reduction required depends on the level of assistance identified and the result of the lead hazard evaluation.
- Pre-construction conference, if necessary.
- Undertake paint stabilization, interim controls, or abatement utilizing safe work practices.

STEP 6 Clearance Test

STEP 7 Notification of Hazard Reduction and Clearance

Acquisition/Rehabilitation Programs

STEP 1 Calculating the Level of Rehabilitation Assistance

- The level of assistance is determined by taking the lower of the per unit rehabilitation hard costs, or per unit federal assistance.
- The following costs are not counted when calculating the level of assistance for a project.
 - (a) Soft Costs
 - (b) Administrative Costs
 - (c) Relocation Costs
 - (d) Program Delivery Costs
 - (e) Environmental Reviews
 - (f) Acquisition of the Property
 - (g) Lead Hazard Evaluation and Reduction Costs*

*Lead hazard evaluation and reduction costs associated with site preparation, occupant protection, relocation, interim controls, abatement, clearance, and waste handling attributed to lead-based paint reduction.

- In multi-family projects that include both federally-assisted and non-assisted units, use the following formula:

$$[(\text{Rehabilitation hard costs for all assisted dwelling units (not including common exterior areas/number of federally-assisted units in the project)} + (\text{rehabilitation hard costs for common areas and exterior surfaces/total number of units in the project})]$$

- **In order to determine the rehabilitation threshold, you must always compare the total HOME dollars (including both the development subsidy and homebuyer subsidy) going into a property address against the total rehabilitation costs going into the project, please see the following table:**

Acquisition Cost	\$30,000	\$30,000	\$30,000	\$30,000	\$30,000
Rehabilitation Cost	<\$5,000	≥\$5,000	≥\$5,000 and < \$25,000	≥\$25,000	≥\$25,000
HOME Funds	≥\$5,000	<\$5,000	≥\$5,000	<\$25,000	≥\$25,000
Approach to Lead Hazard Evaluation & Reduction	Paint test of surfaces to be disturbed/or presumption	Paint Test of surfaces to be disturbed/or presumption	Identify & Control Lead Hazards	Identify & Control Lead Hazards	Identify & Abate Lead Hazards

- Once the approach is determined by comparing acquisition cost to rehabilitation cost, follow the appropriate rehabilitation guidelines for lead hazard evaluation.

STEP 2 Lead Hazard Evaluation for Acquisition/Rehabilitation Activities

- Each unit must be evaluated to identify lead hazards. The required method of evaluation depends on the level of rehabilitation threshold that was calculated in Step 1. The chart under rehabilitation outlines the various requirements according to the level of assistance identified.
- Rehabilitation program managers have the option to forego paint testing and presume the presence of lead-based paint.

STEP 3 Notification of Evaluation

STEP 4 Project Set-up using Exhibit J, refer to Set-up Chapter

STEP 5 Lead Hazard Reduction

- The level of hazard reduction required depends on the level of assistance identified and the result of the lead hazard evaluation.
- Pre-construction conference, if necessary.
- Undertake paint stabilization, interim controls, or abatement utilizing safe work practices.

STEP 6 Clearance Test

STEP 7 Notification of Hazard Reduction and Clearance

Down Payment Assistance Programs

STEP 1 Conduct a Visual Assessment or presume the presence of lead based paint

- A visual assessment is required to identify deteriorated paint in homes. A visual assessment of all interior painted surfaces, including common areas such as hallways, laundry rooms or garages, and exterior surfaces of the building in which the dwelling unit is located must be inspected to identify deteriorated paint. Note: A visual assessment is not considered an evaluation that requires a notification of lead hazard evaluation, since the assessment does not evaluate lead-based paint and/or lead hazards.

STEP 2 Project Set-up using Exhibit J, refer to Set-up Chapter

STEP 3 Paint Stabilization

- All deteriorated paint surfaces that test positive for lead based paint or that are assumed lead based paint must be stabilized before the homebuyer moves into the home.
- The owner must use safe work practices when conducting paint stabilization. Safe work practices include safe work methods, occupant protection, worksite preparation, and cleanup.

STEP 4 Clearance Test

Lead Based Paint Exhibits

- A Lead Hazard Evaluation Results
- B Definitions
- C Sample Disclosure Format for Target Housing Sales - Disclosure of Information on Lead-Based Paint and Lead-Based Paint Hazards
- D Sample Disclosure Format for Target Housing Rentals and Leases - Disclosure of Information on Lead-Base Paint and Lead-Based Paint Hazards
- E Lead-Safe Housing Rule – Applicability Form
- F Summary Inspection Notice Format
- G Summary Notice of Lead-Based Paint Risk Assessment
- H Summary Presumption Notice
- I Hazard Reduction Completion Notice